

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-12629-RWZ

USGEN NEW ENGLAND, INC., a
Subsidiary of NATIONAL ENERGY &
GAS & GAS TRANSMISSION, INC.,
f/k/a PG&E NATIONAL ENERGY
GROUP, INC.,

Plaintiff,

v.

BENTLY PRESSURIZED BEARING
COMPANY, f/k/a BENTLY NEVADA
CORPORATION,

Defendant

**JOINT MOTION TO EXTEND
DISCOVERY AND RELATED
DEADLINES**

The above-captioned parties, USGen New England, Inc., a subsidiary of National Energy & Gas Transmission, Inc., f/k/a PG&E National Energy Group, Inc. ("USGen") and Bently Pressurized Bearing Company, f/k/a Bently Nevada Corporation ("Bently") hereby jointly move this court to extend the discovery and related deadlines in this matter by ninety (90) days in order to allow: (1) the Defendant and its expert witness access to the Salem Harbor Power Station, which is currently under the control of a third party, Dominion Resources, Inc. ("Dominion"), for inspection and testing; and (2) the parties to participate (with counsel and with expert witnesses) in a conference to negotiate the parameters of a global resolution. The current Scheduling Order calls for the conclusion of fact discovery by May 15, 2006, and for conclusion of expert discovery by July 12, 2006.

As further grounds in support of their motion, the parties state as follows:

1. The parties have exchanged voluminous documents and other written discovery in this case and continue to work cooperatively and extensively with each other and with third-party witnesses.

2. In discussing respective discovery plans, the parties agreed to allow each party's expert witness access to the Salem Harbor Station (the "Plant") to review and to obtain certain archived and other operational data from the steam turbine and related equipment which are the subject of this lawsuit.

3. USGen's expert witness was provided access to the Plant in early March, 2006 and obtained data and information, including trend charts, on turbine performance during the relevant time periods described in this case.

4. However, due to unanticipated delays in obtaining the approval of Dominion for access by Bently and its expert witness to the Plant, which delays were beyond the control of the parties, Bently has been and is unable to conduct its Plant inspection prior to the current discovery deadline.

5. As a result of Bently's inability to conduct its Plant inspection and accompanying data analysis (as USGen's expert did), the parties were forced to postpone the formal settlement conference, which had been jointly arranged in Boston with the parties and their experts to attempt to reach a common understanding of the technical issues involved in the case; to discuss the effect of these issues on liability and damages; and to attempt to fashion a global resolution of the respective claims and defenses (without having to undertake the expense of further discovery, including multiple depositions inside and outside of the Commonwealth).

6. Now that Dominion has agreed to allow Bently's Plant inspection in accordance with Bently's Rule 34 Request and the discussions between counsel, the parties are working cooperatively with each other and with Dominion toward arranging such access for a date certain in June, 2006 (Bently's expert witness is no longer available for the remainder of May due to prior commitments).

7. For these reasons, the parties respectfully request that the fact and expert discovery deadlines be extended respectively to August 18, 2006 and October 13, 2006, to allow for the Plant inspection; to allow the parties to conduct the settlement conference to attempt to negotiate a global resolution; and to afford adequate time to finalize depositions and remaining discovery if a settlement cannot be reached.

8. In accordance with these proposed amended discovery deadlines, the parties respectfully request a corresponding continuance of the Status Conference to October 18, 2006, and an extension of the Summary Judgment deadline to November 10, 2006, or to such other dates as may be convenient for the Court.

WHEREFORE, the parties in this matter move the Court to extend the discovery deadlines as set forth above to August 18, 2006 (for fact discovery), and October 13, 2006 (for expert discovery); and to continue in corresponding fashion the Scheduling Conference and the Summary Judgment deadlines.

Respectfully Submitted,

USGEN NEW ENGLAND, INC., a subsidiary
of NATIONAL ENERGY & GAS
TRANSMISSION, INC., f/k/a PG&E
NATIONAL ENERGY GROUP, INC.,

By its Attorneys,
DONATO, MINX & BROWN

BENTLY PRESSURIZED BEARING
COMPANY, f/k/a BENTLY NEVADA
CORPORATION,

By its Attorneys,
RIEMER & BRAUNSTEIN LLP

/s/ William T. Sebesta

William T. Sebesta, Esquire
Texas Bar No. 00789905
Donato, Minx & Brown
3200 Southwest Freeway - Suite 2300
Houston, TX 77027-1112
(713) 877-1112

/s/ Craig J. Ziady

Craig J. Ziady, BBO No. 565216
Riemer & Braunstein LLP
Three Center Plaza
Boston, Massachusetts 02108
(617) 523-9000

12581.629.950777.1